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QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES

Report on the human rights situation in the Republic of Equatorial Guinea submitted by Mr. Alejandro Artucio, Special Rapporteur of the Commission, pursuant to Commission resolution 1996/66

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Introduction

1. The question of human rights in the Republic of Equatorial Guinea has been publicly considered by the Commission on Human Rights since 1979. At its forty-ninth session, in resolution 1993/69, the Commission requested its Chairman, following consultations with the Bureau, to appoint an individual of recognized international standing in the field of human rights and entirely familiar with the situation in Equatorial Guinea as special rapporteur of the Commission, with a mandate to make a thorough study of the violations of human rights by the Government of Equatorial Guinea on the basis of all the information which he considers relevant, including information furnished by intergovernmental and non-governmental organizations and by private individuals, and any documentation provided by the Government of Equatorial Guinea. That resolution was approved by the Economic and Social Council in decision 1993/277, and the Chairman of the Commission appointed Mr. Alejandro Artucio as the Special Rapporteur.

2. For the past four years, the Centre for Human Rights and the United Nations Development Programme (UNDP) have paid special attention to the situation in Equatorial Guinea and have sent several advisory missions there. By agreement between both agencies, Mr. Eduardo Luis Duhalde Hubert was appointed as the Human Rights Consultant in Equatorial Guinea for the purpose, established in the terms of reference, of, inter alia, assisting the Special Rapporteur in all respects, and in particular providing him with reliable and comprehensive information collected in situ on the human rights situation, and helping the Special Rapporteur to define, in agreement with the Government of Equatorial Guinea, the most appropriate legislative and institutional framework for ensuring an effective improvement in the human rights situation in that country.

3. Of the missions undertaken during this period, the United Nations/UNDP mission of 7 April 1993 deserves special mention. Its aide-memoire constituted a genuine plan of action submitted to the Government of Equatorial Guinea for consideration. Mention should also be made of the advice given concerning preparations for elections, and technical assistance and advisory services in the area of human rights.

4. At its fifty-second session, the Commission on Human Rights considered the third report (E/CN.4/1996/67) of the Special Rapporteur, Mr. Alejandro Artucio, and adopted without a vote resolution 1996/66 of 23 April 1996. In the resolution, the Commission, inter alia, called upon the Government of Equatorial Guinea to take all necessary measures to promote the harmonious coexistence of all the ethnic groups making up the society of Equatorial Guinea (para. 2); to continue improving the conditions of prisoners and detainees (para. 8); to continue to take the measures necessary to ensure that the police and security forces and other officials vested with authority put a stop to the violation of human rights (para. 10); and to draw up and implement the National Plan for the United Nations Decade for Human Rights Education, 1995-2004 (para. 14). The Commission encouraged the Government of Equatorial Guinea to continue the dialogue with all the political forces with a view to ensuring progress in the democratization of the country (para. 5) and the participation of all citizens in the country's political, social and cultural life (para. 7); to continue taking the measures necessary to improve the situation of women (para. 12); to continue its efforts to improve the functioning of the administration of justice and to guarantee the independence and impartiality of judges and magistrates (para. 13); and to accede to the

Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the International Convention on the Elimination of All Forms of Racial Discrimination (para. 9).

5. The Commission noted with interest that the democratic transition process in Equatorial Guinea had led to the holding of the first multi-party legislative elections in 1993, the first multi-party municipal elections in 1995 and the first multi-candidate presidential election in February 1996 (para. 3), although it expressed its deep concern at the fact that the presidential election had not guaranteed transparency and had not allowed the proper participation of all the political forces (para. 4). The Commission invited the Government of Equatorial Guinea to continue the reform of the electoral legislation in conformity with the recommendations of the United Nations electoral adviser and those of the Special Rapporteur (para. 6), and to take the measures necessary to ensure that perpetrators of human rights violations were brought to justice, in order to put a stop to impunity and arbitrary arrest and detention, which were sometimes accompanied by torture and other cruel, inhuman or degrading treatment or punishment (para. 11). The Commission expressed its thanks to the Special Rapporteur for his report (para. 1), decided to renew his mandate for one year (para. 16) and requested him to report to the Commission at its fifty-third session (para. 18). It also requested the Secretary-General to continue to provide the Government of Equatorial Guinea with the technical assistance and advisory services necessary to implement the Special Rapporteur's recommendations (para. 15) and to provide the Special Rapporteur with all the assistance necessary for the discharge of his mandate (para. 17). The Economic and Social Council, through its decision 1996/273 of 23 July 1996, endorsed the Commission's decision to renew the Special Rapporteur's mandate for one year and approved the Commission's request to the Special Rapporteur to report to the Commission at its fifty-third session.

I. ACTIVITIES IN SITU

6. The Special Rapporteur undertook his sixth official mission to Equatorial Guinea from 1 to 8 December 1996. On this occasion he was accompanied by the Human Rights Consultant, Mr. Eduardo Luis Duhalde Hubert. Mr. Mansourou Chitou, the UNDP Deputy Resident Representative in Malabo, and his office staff provided valuable and indispensable cooperation in the conduct of the Special Rapporteur's mission.

7. During his visit to the country, the Special Rapporteur was received by the following dignitaries: His Excellency the President of the Republic and Head of State, Mr. Obiang Nguema Mbasogo; His Excellency the Prime Minister and Head of Government, Mr. Angel Serafin Seriche Dougan; His Excellency the Minister for Foreign Affairs and Cooperation, Mr. Miguel Oyono Ndong Mifumu; His Excellency the Minister of the Interior and Local Communities, Mr. Julio Ndong Ela Mangue; His Excellency the Minister of Justice and Worship, Mr. Ignacio Milam Tang; Mr. Martín Ndong Nsué, Judge of the Supreme Court, accompanied by the Procurator of the Supreme Court, Mr. Ricardo Eló; the Mayor of Malabo, Mr. Victorino Bolekia Bonay, accompanied by a senior councillor and several other councillors; the Human Rights Counsellor and Director-General of Justice and Prison Institutions, Mr. Rubén Mayé Nsue Mangue. The meetings took place in an atmosphere of understanding and cordiality, particularly the meeting with His Excellency the President of the Republic and Head of State.

8. The Special Rapporteur wishes expressly to place on record his thanks to the authorities of Equatorial Guinea for the cooperation and assistance they extended to his mission. At no time was his access to the places he wished to visit impeded, nor was he disturbed in the discussions he held with leaders of the political opposition parties and groups and various sectors of civil society.

9. The Special Rapporteur's visit to the island of Bioko was affected by time constraints and the need to observe the functioning of the central State administration and, in its turn the town hall in Malabo, the capital of Equatorial Guinea, which is headed by opposition forces pursuant to the results of the 1995 municipal elections.

10. On this occasion a particular concern was to have intensive and easy contact with the political forces of Equatorial Guinea, especially with the opposition parties, but also with the governing party and other sectors representing society in Equatorial Guinea, such as the various Churches and human rights activists. The Special Rapporteur interviewed several persons who had been detained for political or ideological reasons and had subsequently regained their freedom. A number of them told him that they had been subjected to torture and ill-treatment, persecution or curtailment of their rights. The mission included a visit to Malabo public prison (known as "Black Beach"), where the Special Rapporteur was able to talk freely and in private to prisoners, all of whom had been sentenced for ordinary offences.

11. Since they also wished to obtain information on the situation of human rights and the progress of democratization, the Special Rapporteur and the Consultant maintained close contacts with the diplomatic representatives of the main donor countries accredited in Malabo, particularly with His Excellency Gérald Brunet de Courssou, Ambassador of France, His Excellency José María Otero de León, Ambassador of Spain, and His Excellency Carlo de Filippi, representative of the European Union. They also maintained contacts with the senior representatives of other organizations of the United Nations system in Equatorial Guinea, such as WHO, FAO and UNICEF.

12. The Special Rapporteur's general impression of the situation during this period was that there had been a slight partial improvement on the conditions described in his report to the fifty-second session of the Commission on Human Rights (E/CN.4/1996/67 and Add.1). He nevertheless considers that situations causing concern about the realization of human rights still exist, situations which gave rise to the recommendations he made to the Government in the above-mentioned report, and to the adoption of Commission resolution 1996/66 of 23 April 1996 relating to Equatorial Guinea.

13. The improvements and deteriorations in the situation (although the latter are not significant) will be described in detail and taken carefully into account in the conclusions and recommendations of this report. As in his earlier reports, the Special Rapporteur wishes to draw particular attention to the problem of the impunity of perpetrators of human rights violations in Equatorial Guinea, this constitutes a serious hindrance to the enjoyment of those rights, as was reaffirmed in the Vienna Declaration and Programme of Action adopted by the World Conference on Human Rights on 25 June 1993 (part II.E, para. 91).

II. INSTITUTIONAL ASPECTS

A. Legal structure of the State

14. In 1996 no substantive legislation has been enacted which has favourably altered the legal structure of the State, helping to mitigate its absolute character. The authorities wished mention to be made, as an example of progress in this area, of the General Education Act of January 1996, which terminates the State monopoly of education.

15. Among the enactments which testify to the excessive control by the State of all public activity, attention should be drawn to the Order of the President of the Government of 6 February 1996 establishing regulations concerning the participation of international observers at elections in Equatorial Guinea. Article 22 of this Order states: "On completion of his mission and before his return, each International Observer shall transmit a copy of his report to the Ministry of the Interior".

16. No substantive changes have been made in the Electoral Act of January 1995, which continues to be a cause of concern, both because of the announcement made by the Head of State that the governing party - the Democratic Party of Equatorial Guinea (PDGE) - had asked him to abolish the secret ballot, and because of the demonstrated shortcomings in its implementation, both in the municipal elections and in the legislative and presidential elections. As the Special Rapporteur stated in his previous reports, the electoral authority's lack of independence from, and its subordination to, the Executive give rise to numerous complaints of partiality and fraud. In this connection it should be noted that the highest governmental authorities informed the Special Rapporteur that, at the behest of the Head of State, a reform of the above-mentioned Act will be studied with the aim of bringing it into line with the recommendations made by the UNDP technical mission in 1995 and with the similar observations of the mission by the African, Caribbean and Pacific (ACP) Group of States to Equatorial Guinea in June 1996 (whose report the Special Rapporteur had before him), to the effect that the electoral authority should be established as an organ independent of the political authority.

17. The Special Rapporteur is pleased to record, as a positive aspect of the protection of human rights, the ratification by the State in June 1992 of the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of the Child. However, the task is not yet complete since the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the International Convention on the Elimination of All Forms of Racial Discrimination have not been ratified, despite what was suggested by the Special Rapporteur and the Human Rights Consultant in order to provide more effective protection of the rights and guarantees of citizens resident in the territory of Equatorial Guinea.

B. Administration of justice

18. The independence of the judiciary cannot be said to be adequate, although the Special Rapporteur has received an assurance from the Minister of Justice and Worship that efforts are being made to achieve greater judicial objectivity in the handling of cases and the speedier resolution of justiciable matters through meetings with judges and officials. The training course conducted in 1996 by the United Nations Centre for Human Rights, in

cooperation with UNDP, on the administration of justice and independence of the judiciary focused discussion on the question and may be considered to have had a very positive impact, although for the time being there have been no substantial changes in the situation.

19. During his visit to the Supreme Court of Justice, the Special Rapporteur noted his interlocutors' concern at the inability of the highest court to enforce its decisions in the face of interference by the other powers of the State, in particular the Executive, and at the fact that manifestly inadmissible appeals were lodged with the Constitutional Court, as if the latter could review the final judgements of the Supreme Court. In addition, he received confirmation of the limited knowledge of current legislation among judges and officials, due in part to the failure to publicize laws. This question is analysed in a separate section.

20. No regulations have been established during the legislative period of 1996 concerning the functioning of the Higher Council of the Judiciary (Constitution, art. 98) or of the Constitutional Court (ibid., arts. 94 et seq.). The Special Rapporteur was informed by the Minister of Justice and Worship that both the relevant bills are at the drafting stage. The functioning of the Constitutional Court is limited since, in view of the absence of a specific organization act, it is governed by old legislation relating to the time when it functioned as a division of the Supreme Court.

21. There has been no practical application of the Habeas Corpus Act (No. 18/1995). The Special Rapporteur noted, during his visit to the Supreme Court, that not even in that Court is there full understanding of the importance of habeas corpus or of the power which it grants to review unlawful detentions and to put an end to the ill-treatment of persons detained by the police and State security forces. The Special Rapporteur learned of just one case where habeas corpus was applied for, and it was effective since it enabled Mrs. Isabel Obono Endamian, who had been detained in an unknown place, to be transferred to Bata prison, whence she was shortly released.

C. Military jurisdiction

22. The excessive encroachment of military jurisdiction into criminal matters continues to be a matter of concern, because it assumes competence not only for offences that are not specifically of a military nature, but in relation to civilians having absolutely no military status. In this way and through judicial consideration of accusations concerning possible insults to the Head of State, the military courts exercise control over opponents, curtailing freedom of expression and limiting the exercise of political activity within the framework of the democratic pluralism of the State. No desire to limit the scope of military jurisdiction was noted on the part of the authorities interviewed, and there was no mention of any draft legislation on the subject.

D. Failure to publicize laws and governmental acts

23. Despite the recommendations made by the Special Rapporteur in his previous reports, insufficient publicity is still given to laws and governmental acts, to such an extent that they are unknown not only to the general public, but also to sectors of the public administration - especially the peripheral authorities responsible for public order, who take advantage of their ignorance to deny legally granted rights to applicants. The fact that

laws, decrees and regulations are not published periodically and regularly is, as the Special Rapporteur has previously observed, a source of serious legal uncertainty.

III. SITUATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS

A. Deprivation of freedom

24. During 1996 the policy of repression against opponents and dissidents has been characterized by less blatant, but no less real activity. There have been no major criminal trials or detentions for lengthy periods, but the deprivation of liberty of leaders and activists of opposing political parties has continued, for brief periods of a few days, often accompanied by physical ill-treatment, threats and the imposition of fines as a means of intimidating them into giving up political activities.

25. Nine of the 14 legalized political parties in Equatorial Guinea (Unión Popular (UP); Partido del Progreso (PP); Social, Democratic and Popular Convergence Party (CSDP); National Democratic Union (UDENA); Socialist Party of Equatorial Guinea (PSGE); Acción Popular de Guinea Ecuatorial (APGE); Social Democracy party (CPDS); Progressive Democratic Alliance (ADP); and Social Democrat Coalition Party) complained to the Special Rapporteur about the curtailment of their rights and the persecution of their leaders and activists. Some of the principal complaints received are listed below.

26. Case of Celestino Bacale: Mr. Pedro Celestino Bacale Obiang, the leader of the CPDS party and an elected town councillor in Malabo, was accused of having caused an incident with a plain-clothes (no uniform) security officer in the Diamante bar-restaurant in Malabo on 13 November 1996. In the course of this incident, still according to the security officer, Mr. Bacale assaulted him and uttered insults against the Head of State. Mr. Bacale's version is diametrically opposed. He maintains that he was provoked and assaulted in the bar by the security officer, who was drunk. The officer immediately called up other policemen and, with them, arrested Mr. Bacale, who was held, together with another person who had been with him in the bar, for three days in the cells of the Directorate-General for Security in Malabo. This provoked a reaction by his party and other opposing parties, who called for his release. He was in fact released but was never taken before a judge and no formal criminal charges were brought against him.

27. Despite this fact, he was subsequently summoned to appear before the officiating military judge in Malabo Military District, in accordance with the proceedings initiated by the police. Mr. Bacale tried to appoint a defence counsel but was informed in writing that "this Officiating Military Court has no charge against you until the verification of the facts; consequently, the choice of a counsel or attorney to which you refer in your letter is inadmissible". Since Mr. Bacale refused to appear, a warrant was issued for his arrest under article 487 of the Criminal Procedure Act. On the afternoon of 4 December, when the Special Rapporteur was in Malabo and had personally noted the presence of security officers outside the CPDS party headquarters and outside Mr. Bacale's home next to the headquarters, the front doors of the headquarters and Mr. Bacale's home were broken down. Mr. Bacale was not there. His wife, Mrs. Susana Mba, was rudely treated.

28. For a fuller understanding of the case and the prevailing tension in the situation, it should be noted that previously, in February 1996, Mr. Bacale

had been arrested with the mayor of Malabo and other persons and subjected to harassment and ill-treatment on police premises (E/CN.4/1996/67/Add.1, para. 5). This prompted his party, the CPDS, to lodge a criminal complaint against Mr. Antonio Mba Nguema (Director-General of Security) and other officials for the offences of unlawful arrest and torture. However, this complaint yielded no practical result. In May 1996, Mr. Bacale complained that he had been subjected to intimidation and arrested and had his property confiscated by the governing authorities on the mainland. This was denied by the Government of Equatorial Guinea in a note, dated 26 May 1996, addressed to the United Nations Centre for Human Rights.

29. His Excellency the Prime Minister and His Excellency the Minister of the Interior, to whom the Special Rapporteur transmitted his concern at the events of 4 December, stressed the legality of the powers of the military courts and criticized the behaviour of Mr. Bacale, stating that his disobedience of a court order was unacceptable. They told the Special Rapporteur that Mr. Bacale's conduct could be attributed to a desire to stir up institutional conflict in the light of the Special Rapporteur's visit.

30. This case once again highlighted the need to limit the scope of military jurisdiction; if Mr. Bacale could be charged with any offence after questioning, it should be within the competence of the ordinary courts and not the military courts. In late December 1996 Mr. Bacale secretly left the country for Spain.

Arrest and detention of political activists

31. Most deprivations of liberty during 1996 have been for short periods and have not usually given rise to criminal proceedings and the detainees have not been brought before the courts. Most arrests and detentions occur on the mainland, primarily in rural areas. In this connection, account should be taken of the limited experience of democracy in these rural areas, where the general low level of education and adherence to traditional forms of local power, together with the difficulty experienced by many of the so-called "peripheral authorities" responsible for public order (government delegates, police superintendents, military chiefs and village chiefs) in understanding the changes brought about by the replacement of the single-party system by a multi-party system with 15 legalized political parties, give rise to friction and violence which are inflamed by the mutual intolerance of all the parties in conflict.

32. In most cases these detentions, which last for a few days, have been accompanied by the imposition of fines in an administrative procedure by the governing authorities - without judicial supervision. The fines are determined arbitrarily and are for very large amounts (10,000 to 50,000 CFA francs, equivalent to US$ 20 to 100). It should be borne in mind that the average wage of a State employee is between 25,000 and 30,000 CFA francs. Payment of the fine is an essential condition for release; in the absence of payment, detention is prolonged indefinitely.

33. In the same connection, the Special Rapporteur notes with concern, since it might serve to provoke abuses, the text of the decision dated 12 August 1996 containing "Provisions for the establishment of the District Monitoring Commissions of the Democratic Party of Equatorial Guinea (PDGE) throughout the national territory". Implementation of this decision may be open to misinterpretation, especially in rural areas. Article 4 of the

decision states: "The District Monitoring Commission shall permanently maintain, within its district community, teams responsible for information, sensitization and supervision which shall continuously assess the availability and militancy of the Democratic Party of Equatorial Guinea, and evaluate the action of the opposition within the district community, with the aim of counteracting this activity through concrete and rapid measures which shall not be limited to simply providing information to the Commission or the National Office, but shall extend to direct action on the ground to nullify the impact of opposition propaganda". This is supplemented by the provisions of article 5 (a), which reads: "Punctually and in preparation for the forthcoming legislative elections, in addition to and with the support of the above-mentioned programme, the District Monitoring Commissions shall, as from the second fortnight of September 1996, conduct fortnightly monitoring missions in the district in order to carry out the programme set forth in article 4 on a more intensive and sustained basis, and, through their physical presence, convince activists in the district of the firm and complete dedication of the highest authorities of the PDGE and of the dignitaries in the district to the affirmation and maintenance of PDGE action in that district." The decision was signed by the Head of State in his capacity as President and Founder of the PDGE, which is currently in power.

D. Prisons in Malabo and Bata

34. On a positive note, it should be stressed that the number of prisoners is still small, both in Malabo public prison and in Bata public prison.

35. On 4 December 1996, the Special Rapporteur, accompanied by the Human Rights Consultant, visited Malabo public prison (known as "Black Beach") and, individually and without witnesses, interviewed 1 female and 22 male prisoners. It should be noted at the outset that none of them is charged with offences relating to political or ideological activities, which may be regarded as a very positive and encouraging point. The Special Rapporteur also noted that the treatment received in prison is generally good and none of the prisoners complained of harassment or ill-treatment.

36. By comparison with the findings during the visits of May and November 1995 (see E/CN.4/1996/67, paras. 20 to 24), manifest efforts have been made by the authorities to improve prison conditions. Thus the prisoners have been given beds, although not all of them have yet been supplied with mattresses; they are given reading material and a television set has been placed in one of the rooms to which all prisoners have access. The television is on from 4 or 5 p.m. until 9 p.m. and, on occasion, as late as 11 p.m. In addition, and with the assistance of the Red Cross of Equatorial Guinea, a standpipe, (tap) has been installed in the courtyard to which the prisoners have access; this has improved conditions of hygiene. The lavatories have been unblocked and are now operational, which was not the case in 1995. All these developments must be viewed very positively and indicate that action has been taken on the recommendations made by the Special Rapporteur in earlier reports.

37. Nevertheless, the prisoners' diet continues to be hopelessly inadequate and is on many days limited to two loaves a day. Every three or four days, they are given a helping of sardines and rice, which represents a slight improvement on their previous situation since proteins have been introduced into their diet. The prison authorities reported that they have a monthly budget of only 115,000 CFA francs (approximately US$ 230) to meet the food

needs of Malabo public prison. Medical care also continues to be inadequate, as the doctor does not always visit the prison at least once a week, as he is required to do. And the prison is still short of medicines for prisoners. Thanks to the Red Cross a few basic medicines are available.

38. The prisoners continue to perform unpaid compulsory labour outside the prison grounds. In previous reports to the Commission, the Special Rapporteur has said that the fact that work exists and is performed outside the prison walls is very positive and demonstrates that prisoners are humanely treated. However, he has recommended that prisoners should be remunerated for this work so that they can meet their own needs and provide financially for their families, and that this work should come under the control of the judicial authorities; this is not currently the case (arts. 75 and 76 of the Standard Minimum Rules for the Treatment of Prisoners - Economic and Social Council resolutions 663 C (XXIV) of 31 July 1957 and 2076 (LXII) of 13 May 1977 - refer to this question and provide examples and guidelines for action by Governments).

39. As to Bata public prison, the Special Rapporteur was unable to visit it on this occasion but he did receive reliable information about conditions there. Among this information is that contained in the above-mentioned report of the mission undertaken in June 1996 by the ACP Group, who visited this prison. In its report submitted to the Government (the Special Rapporteur possesses a copy), it is stated that 23 men and 3 women were at that time held in Bata public prison. The report confirmed that the prisoners were being treated decently and that no prisoners were being held for political or ideological reasons.

C. Torture and other cruel, inhuman or degrading treatment or punishment

40. The Special Rapporteur observed that cases of torture and ill-treatment of prisoners continue to occur, although the number of complaints received is considerably lower than in previous years. Some of these cases are described below.

41. Case of Mr. Salvador Ndong Mba. When they visited Malabo prison on 4 December, the Special Rapporteur and the Human Rights Consultatnt observed the deplorable state of health of this prisoner, due - according to him - to the torture and ill-treatment to which he had been subjected in Malabo central police station, which is headed by Chief Commissioner of Police Julián Ondó Nkumu. Even though six months had elapsed since his arrest, he had difficulty in moving his hands and unmistakable marks on his arms showed that he had been hung up by his arms. He also had unhealed wounds on his feet. Mr. Ndong Mba, a soldier serving as an inspector in the Presidential Guard, was tried and sentenced to three years and six months' imprisonment by a military court for insubordination. Despite having asked for it, the Special Rapporteur has not received any information that an investigation has been carried out into the torture suffered by this prisoner or that the perpetrators of this crime have been identified. He wishes to state that since the wounds and marks were very visible, the incident should have been investigated automatically by the military judicial authorities and should indeed have been reported by the doctor visiting the prison.

42. Case of Mr. José Nguema Edjang. This gentleman, the Executive Secretary for Social and Cultural Affairs of the Unión Popular party, reported the following to the UNDP office and his party leaders on 13 August 1996. In

response to a summons from the government delegation in Malabo, he presented himself at the delegation on 8 August, when he was told that he had been accused of "holding clandestine meetings at his home". He stated that, because he was a member of a recognized political party, there was no reason to hold "clandestine meetings" since they were generally held at party headquarters and demanded that the person making the complaint should come before him in order to clarify the matter. The Secretary of the government delegation informed him in writing that he had to pay an administrative fine of 30,000 CFA francs (US$ 60). On 12 August he again went before the government delegate and his secretary, and insisted that the complainant should be summoned and that the fine should be cancelled. The secretary ordered the police to give him 60 blows for insubordination and that was duly done. The UNDP representative who observed the marks left by the blows transmitted Mr. Nguema Edjang's complaint to the Ministry of Foreign Affairs and Cooperation. The Special Rapporteur has not been informed that the complaint was investigated by the competent authorities.

43. Case of Mr. Segismundo Edjang Mbó, Unión Popular party activist. This man appeared personally before the Special Rapporteur, who observed, on 4 December 1996, that he still had open wounds on both feet and unmistakable marks on his arms showing that he had been hung up by the arms. He stated that the injuries had been inflicted on him when he was arrested on 1 November 1996 by members of the Gendarmería based in Bata on a charge of having damaged a picture of the Head of State. He was taken to the Gendarmería headquarters, which is under the responsibility of Commander Cayo Ndó Mbá, to whom reference will be made in the section relating to impunity; there he was subjected to torture and ill-treatment. He stated that he was hung up by the arms and given 250 blows with a stick, in accordance with orders given by the Commander. He was released 48 hours later. In this case again, the Special Rapporteur has received no information that any investigation has been carried out into the torture suffered by Mr. Edjang Mbó or that the perpetrators of this crime have been identified. The Special Rapporteur is obliged to state that since the wounds were very visible, the incident should have been investigated automatically by the authorities.

44. The Special Rapporteur has in his possession complaints of torture and ill-treatment of various other citizens during 1996. Among these cases, and simply by way of example, he would cite the names of Mr. Julián Ehapo Bomaho, Senior Councillor in Malabo, and Mr. Indalecio Abuy, Mainland Coordinator of the CPDS. According to the testimony of these men and other victims received by the Special Rapporteur, the abuses are attributable to the following persons: Narciso Edu, alias Edu Fore, Military Police Commissioner; Timoteo Mebiam, alias "Adjinana", Frontier Commissioner; Victoriano Ela Nsang, alias "Commissioner X", Deputy Commissioner in Malabo; and the officials already mentioned in connection with the incidents described above. The Special Rapporteur has no information that the reports, several of which were transmitted to the authorities, have been investigated by them. The impunity of the perpetrators of human rights violations is continuing.

D. Political rights: freedom of assembly and demonstration, freedom of movement and freedom to travel

45. There are still limitations, albeit fewer than before, on the exercise of the right of assembly and other political rights. These limitations are

generally imposed by government delegates and police and military authorities, who impede the free activity of the opposing political parties, as has been described in this report.

46. The Special Rapporteur has learned of various cases and types of harassment and intimidation of activists in legally recognized political parties. Thus, for example, according to reports by his party organization, Mr. Roberto Esono Ndemensogo, the Secretary for International Relations of the Progress Party, has been repeatedly assaulted and threatened with death by members of the security forces. The case of Mr. José Nguema Edjang has been described above (see para. 42).

47. As regards freedom of movement and freedom to travel, in general the right of nationals to enter and leave the country has been respected during this period. The difficulties which have occurred have concerned travel within the country. As has been stated, the existence of police checkpoints in Equatorial Guinea, both on the island of Bioko and on the mainland (Baney, Luba, Micomiseng, Niefang, Bata-Mbini road, etc.), impedes freedom of movement and enables the police and military authorities to stop and delay active members of opposition political parties and to confiscate their belongings.

48. Among many such cases, mention may be made of the experience of Mr. Carmelo Mocong Onguene, Executive Secretary for International Relations of the Unión Popular party, who on 21 September 1996, at the police checkpoint in Micomiseng on the mainland, was held for several hours while on his way back from Ebibeyin, where he had been attending his mother's funeral. His papers were checked and the party correspondence and documentation he was carrying, together with a number of visiting cards with names and addresses, were confiscated; they have not so far been returned to him.

E. Situation and status of women

49. Pursuant to Commission on Human Rights resolution 1993/46 of 8 March 1993, the Special Rapporteur has again looked into the situation of women in Equatorial Guinea and their position in society.

50. It is estimated that 52 per cent of the total population (400,000 inhabitants) are women, 84,000 of whom are of child-bearing age. Women continue to hold a marginal position in public life, although their participation has increased slightly. A sign of the times is the fact that two women are currently Ministers of State, six are members of Parliament, seven are directors in the public administration, three are mayors and two are presidential advisers. These positive developments have not, unfortunately, been sufficient to reverse the situation, improve the inferior position of women in Equatorial Guinea and end the discrimination against them; efforts will accordingly have to continue.

51. The Special Rapporteur understands that government action must be accompanied by a change in those cultural aspects which have caused women to be relegated to an inferior position and to be subjected to discrimination. He nevertheless recognizes and appreciates the fact that the Government, through the Ministry of Social Affairs and the Status of Women, has organized meetings and activities aimed specifically at discussing the important role that women should play in Equatorial Guinea society. Another undoubted contribution was the seminar conducted in 1996 by the United Nations Centre

for Human Rights with the cooperation of UNDP, at the Special Rapporteur's suggestion. The Special Rapporteur considers such activities to be a step in the right direction.

52. Another positive aspect is the fact that the Minister of Justice and Worship informed the Special Rapporteur that the Ministry had established a Register of Customary Marriages and begun to issue family record books, which had previously been done only for religious marriages. This will presumably lead to greater protection of women who enter into a customary marriage.

F. Situation of children

53. The resolution adopted by the Committee on the Rights of the Child, which operates pursuant to the Convention on the Rights of the Child, at its session held from 20 September to 8 October 1993, inter alia, invited, the special rapporteurs of the Commission on Human Rights to take the Convention into consideration within the framework of their mandates. The Special Rapporteur has consequently done this.

54. The situation of children in Equatorial Guinea is extremely disturbing, due to the social and economic situation of large sectors of the population, who live in extreme poverty. This statement may be brought into sharper relief by means of a few figures, without prejudice to those that will be given later concerning the general social, health and educational situation. Infant mortality rates continue to be high: 95 per 1,000 live births. The main causes of infant mortality continue to be malaria, acute respiratory infections, diarrhoea, malnutrition and vaccine-preventable diseases. It is estimated that 22 per cent of children under 5 years of age are malnourished. The maternal mortality rate is estimated at approximately 400 per 100,000. As regards education only 11 per cent of school-age pupils are estimated to have completed the first grade of primary school between 1990 and 1995. Only about 10 per cent of these children were girls, which means that women will be at a definite disadvantage for future access to better-paid jobs.

55. Against such a worrying background, one positive aspect of the Government's efforts was its sponsoring on 29 and 30 November 1996, with support from UNICEF, of the "First forum on the implementation of the Convention on the Rights of the Child", which Equatorial Guinea ratified in June 1992. The activities included a public presentation by some 20 children to the House of Representatives of the People (Parliament) on the problems confronting them. The State television broadcast several programmes on the forum, which helped to raise public awareness of this issue.

G. Ethnic discrimination

56. The Special Rapporteur reported earlier on a situation involving discrimination against persons belonging to the Bubi ethnic group on the island of Bioko and the inhabitants of the island of Annobón. He now wishes to give a few examples of this discrimination.

57. In a written communication dated 31 October 1996 from the government delegation in the district of Baney, to which the Special Rapporteur has given consideration, the government delegate reminds the population of Baney that any "traditional celebration or ceremony" involving a gathering of people requires prior authorization from that government delegation. The Special Rapporteur considers it excessive to require prior government

authorization to conduct any traditional celebration or ceremony, especially when the events involve small gatherings of some 30 or 40 people. Requiring prior authorization from the authorities would seriously jeopardize the right of any community freely to conduct ceremonies that are expressions of its culture, including baptisms or other traditionally-established religious rights. Obstacles of this type have frequently led to violations of human rights.

58. On 20 October 1996 for example, the residents of Baney (island of Bioko) decided to hold a ceremony to celebrate the return from Spain of one of their community members, Mr. Martín Puyé Topepe. They had requested and received permission from the local police. As will be seen, however, this was not sufficient. After they had attended mass at the local Catholic church and eaten lunch together, the government delegate, Mr. Bartolomé Owono, ordered the police to arrest a number of residents - Mr. Cleto Batapá, Mr. Faviano Chale, Mr. Benjamín Buale and Mr. Serafín Riokalo Sila - on charges of holding a "clandestine meeting". They were released on 22 October. But a few days later, on 25 October, Mr. Cleto Batapá, Mr. Faviano Chale, Mr. Benjamín Buale, were re-arrested together with Mr. Martín Muebake, Mr. Higinio Belope and Mr. José Bekari, and taken to the central police station in Malabo, where they were held for several days on the same charge of "holding a clandestine meeting". They were then released and again summoned to provincial government headquarters in Malabo; when they went there on 11 November, they were arrested and taken back to the police station, where they were held until 15 November. At that point they were informed that they would each have to pay a fine of 5,000 CFA francs, but as they did not have the money, they were ultimately released. Nevertheless, an order was issued to detain Mr. Serafín Raso, a local official in Baney, who was kept in prison for several days. Finally, still in connection with these events, on 22 November Mr. Aniceto Bokesa and Mrs. Felisa Ebachu were taken into custody (for several days) on charges of membership of the Movimiento de Autodeterminación de la Isla de Bioko (MAIB); they were subsequently released after they had been asked to pay a fine of 15,000 CFA francs. These arbitrary arrests and detentions took place without judicial supervision, and the persons responsible for them were never made to take responsibility. Impunity persists.

59. The Special Rapporteur notes that the victims of the above-mentioned abuses are all members of the Bubi ethnic group, and that they are actual or alleged members of, or simply sympathize with, the MAIB.

60. The Special Rapporteur reiterates what he said in his previous report (E/CN.4/1996/67, paras. 54 and 87): "nothing should prevent freedom of action by the movement of which many Bubis are members, the Movimiento de Autodeterminación de la Isla de Bioko (MAIB), which is non-violent and asks only to exercise its right of self-determination which international law recognizes in principle for all 'peoples', without exposure to discrimination or repression".

61. In this connection, consideration should be given to General Recommendation XXI (48), adopted by the Committee on the Elimination of Racial Discrimination, which functions pursuant to the International Convention on the Elimination of All Forms of Racial Discrimination. At its March 1996 session, the Committee analysed the meaning of the expression "right to self-determination". After stating that this is a fundamental principle of international law, the Committee says that it is the duty of States "to

promote the right to self-determination of peoples". It limits this right, however, as follows: "International law has not recognized a general right of peoples unilaterally to declare secession from a State". Actions that might lead to total or partial fragmentation of territorial integrity, political unity or sovereignty of States must not be permitted. The foregoing is without prejudice to the possibility of arrangements reached by free agreements of all parties concerned (see Official Records of the General Assembly: Fifty-first session, Supplement No. 18 (A/51/18), annex VIII B).

H. Non-governmental human rights organizations

62. Proceedings for legal recognition of three non-governmental organizations (NGOs) engaged in the defence of human rights which applied to the Ministry of the Interior for recognition a few years ago (see E/CN.4/1996/67, para. 50) are at a virtual standstill. The applications of three more NGOS dealing with various social questions are also being processed, but legal recognition has not yet been obtained. In his previous report, the Special Rapporteur referred to United Nations General Assembly resolution 40/123 of 13 December 1985, which draws the attention of States to the "constructive role that national non-governmental organizations can play", which was reaffirmed by the Vienna Declaration and Programme of Action adopted by the World Conference on Human Rights in 1993.

63. The Special Rapporteur was told of the difficulties encountered by the Asociación Guineo Ecuatoriana de Cuidado y Defensa a la Edad Avanzada (AGECDEA), a legally-recognized association. In addition, and as an illustration of his earlier observation concerning the lack of experience with democracy in rural areas and the attachment to traditional forms of local power exercised by many of the so-called "peripheral authorities", in Mongomo and Ebibiyin these authorities forbade the AGECDEA leaders to organize a meeting of senior citizens in order to publicize and discuss the association's objectives and activities. The opposition political parties have not been the only ones affected by obstacles of this type.

I. Economic, social and cultural rights

64. The Special Rapporteur wishes to draw attention to the situation of the municipality of Malabo, which is currently governed by a majority opposing the National Government, under the leadership of the mayor, Mr. Victorino Boleika. According to the municipal officials with whom the Special Rapporteur met, the central administration is withholding the budgetary resources allocated to Malabo, which has received only a very small portion. This, in the opinion of the municipal councillors, is paralysing or severely hampering the services provided by the municipality. The situation is having direct, negative repercussions on the already-deprived population of Malabo, the capital of the Republic.

65. The lack of reliable data continues to make it difficult to provide a picture of the social and economic situation, and consequently of the enjoyment of the relevant rights; the Special Rapporteur will nevertheless make a few points relating to this question.

66. One illustration of the situation is the fact that 65 per cent of the population of Equatorial Guinea are living in conditions of extreme poverty. Low-income sectors receive less than 13 per cent of the general State budget, with predictable social consequences.

67. The country's economic base is principally in oil, agriculture, the timber industry and fishing. The timber and oil industries accounted for 89.6 per cent of total exports in 1995. Crude oil production will enjoy a considerable boom, rising in a short period from the current 7,000 barrels a day to 35,000 or 40,000 per day, which will provide the country with an enormous amount of income.

68. The per capita gross national product increased from US$ 360 in 1993 to US$ 471 in 1996. But the country continues to carry an excessive external debt, the servicing of which absorbed 75 per cent of the general State budget until recently; in 1996 this was reduced considerably, to 57.6 per cent.

69. Sixty per cent of the population have no access to drinking water; of this group, 59 per cent live in urban areas and 41 per cent in rural areas. According to general estimates, only 20 per cent of the rural population are linked to the basic sanitation system. Studies are currently being conducted by FAO in an attempt to resolve the drinking water problem in the cities of Malabo and Bata.

70. As regards the right to health, figures on childhood and the high infant mortality rate were provided in the chapter on children (95 per 1,000 children born die of the diseases mentioned). Maternal mortality is also very high (400 per 100,000), due principally to medical and hygiene problems and early pregnancies. AIDS is on the increase, with the number of cases rising from 43 in 1993 to 157 in 1995. One positive feature of this disturbing picture is the fact that WHO has begun a polio vaccination programme, which has already covered 89 per cent of young children.

71. The very low rate of prevention of curable diseases and their fatal effects may be attributed to inadequate medication, the lack of consultations with a doctor to establish a diagnosis and early treatment, and the geographical and financial inaccessibility of medical treatment. Medical centres are inadequate and are short of trained staff and technology to deal with the public.

72. An example of the foregoing is the situation in Bata hospital. The Special Rapporteur will describe it on the basis of a reliable report, that of the mission of the ACP Group which visited Equatorial Guinea in June 1996, to which reference was made earlier. According to the report, the hospital has no regular electricity supply; it lacks drinking water; for the last five years it has not been supplied with oxygen for the treatments that require it; there are practically no medicines or X-ray equipment; many of the rooms have no light; part of the hospital has had to be closed because of the wretched conditions; the buildings are in an advanced state of deterioration and the grounds are not cleaned; mattresses and bed linen are in short supply. The report concludes that the hospital has in fact furned into a health centre, since it lacks the minimum requirements for classification as a hospital.

73. Where the right to education is concerned, more than 50 per cent of women are illiterate, although the school enrolment rate for women did increase considerably in 1995. The school drop-out rate is 37.5 per cent for pupils of both sexes, with a higher rate for girls. There is an average pupil/teacher ratio of 60 to 1, and in some cases even 100 to 1, at the primary level. Other problems in the area of education are the poor state of many classrooms and the lack of educational materials.

74. Lastly, with reference to the right to work, the country suffers from a major lack of sources of work and employment, and very high rates of unemployment and underemployment. Most labour activities can be classed as subsistence activities and only in a few exceptional cases is capital accumulated. Informal activities, such as selling products in markets, in the towns and cities, proliferate. Wages are very low, and although they have increased considerably, they are still insufficient: wages have increased by 22 per cent in the public sector and as much as 300 per cent in the private sector over the last two years. Current wages are between US$ 27 and US$ 88 per month, 70 per cent of which has to go on food, with very little left over for health, education, clothing, housing and recreation.

75. One all-embracing negative factor is the inadequate State administration which is due to the lack of material resources and trained human resources, the lack of transparency in management and the lack of coordination among the different services.

IV. IMPUNITY OF PERPETRATORS OF HUMAN RIGHTS VIOLATIONS

76. Impunity is a negative and detrimental factor; it is an insult to justice and undermines equality before the law. The opposite of impunity is the properly functioning administration of justice. Impunity may arise from the fact that the police or the courts do not investigate offences, deny or conceal them, protect those responsible, or fail to act against those responsible, whether on their own initiative, for political reasons or because they are subjected to intimidation. In all those cases impunity occurs. When the justice system functions well, it makes everyone responsible for his acts, avoids the temptation to take the law into one's own hands, has a calming effect on society and acts as an effective deterrent to future offences.

77. The Special Rapporteur unfortunately considered it appropriate to repeat the comments made on this question in his previous report (see E/CN.4/1996/67, paras. 55, 56 and 80), since no progress had been made in this area. It will be difficult to make any progress towards respect for human rights in Equatorial Guinea, except incidentally, as long as the highest government and judicial authorities show no desire to put an end to the impunity enjoyed by State officials who have perpetrated or instigated human rights violations. The Special Rapporteur has found no evidence that the cases referred to in previous reports, or in this report, have been the subject of any judicial and/or administrative investigation.

78. To illustrate the impunity of the perpetrators of violations of civil and political rights, the Special Rapporteur will mention the case of the former Chief of Police in Malabo, Mr. Cayo Ndó Mbá, to which he referred in his previous report (E/CN.4/1996/67, para. 55) as being the only case he knows in which a member of the security forces was prosecuted, tried and sentenced to imprisonment (two years and four months for the homicide of a peasant, Mr. Martín Obama Ondo). The Special Rapporteur has ascertained that not only did the former police chief not serve his sentence, but in August 1996 he was promoted to the rank of chief of the Gendarmería in Bata, where he has again been reported to have practised torture and ill-treatment (see para. 43 above).

79. The perpetrators of violations of economic, social and cultural rights also enjoy impunity when judicial mechanisms fail to function in corruption cases involving high-level State officials. When substantial amounts of money

are embezzled by dishonest officials, there is an indirect effect on the economic, social and cultural rights of the people, whose urgent needs might have been partially met with the unlawfully appropriated sums.

80. Despite promises by senior officials that they would furnish to the Special Rapporteur evidence that the State addressed cases of abuse of power and unlawful conduct on the part of its officials, he never received any proof of a single investigation or administrative or criminal proceeding against an official responsible for abuse of power or any other offence.

81. The Special Rapporteur wishes to point out that the "impunity" in question has nothing to do with the "functional immunity" protecting certain officials. In Equatorial Guinea as in any other country in the world, certain authorities and officials, such as members of parliament, the President of the Republic and the members of the Supreme Court, enjoy a "functional immunity" established to enable them to perform their distinguished functions independently. This means that if they are suspected of committing an offence, before judicial proceedings are initiated a special procedure must be followed in order to "strip" them of this immunity. Once this procedure has been completed, however, they, too, must be prosecuted, like any other inhabitant of the country.

82. As stated in the Vienna Declaration and Programme of Action adopted by the World Conference on Human Rights in 1993, if no steps are taken to combat impunity, a firm basis cannot be provided for the rule of law (part II, paras. 60 and 91). The tolerance shown by the Government of Equatorial Guinea towards those who take advantage of their positions as civil servants and members of the armed forces to violate the fundamental rights of individuals is a matter of deep concern to the Special Rapporteur, as it will doubtless also be for the Commission on Human Rights.

V. CONCLUSIONS

83. The Special Rapporteur observes some measure of political will on the part of the authorities to continue the process of establishing the rule of law in Equatorial Guinea, and appreciates the Government's efforts in this direction, which have led to modest progress in the situation of human rights and fundamental freedoms. There are, however, a series of obstacles and problems which continue to exist and which must be overcome if respect for human rights is to be made a reality.

84. There were in 1996 no substantial changes in the legal structure of the State that would enable the institutions to function more democratically. Similarly, the failure periodically and regularly to publish laws, decrees and governmental acts continues to be a source of serious uncertainty about the law.

85. Among the obstacles impeding the functioning of democracy, the Special Rapporteur notes the inadequate functioning of those institutions that could guarantee democratic coexistence. To achieve this the three powers of the State will have to function independently within their respective spheres of competence, and fully exercise the mutual checks and balances as authorized and obliged by the Constitution.

86. The Special Rapporteur considers as very positive the fact that, at the time of his visit, no convicted or unconvicted prisoners were being held for

political offences or on political or ideological grounds. He would like to reiterate in these conclusions that he found no one imprisoned for this type of act. None of the people he spoke with, including representatives of opposition political parties and NGOs, mentioned the existence of such a category of prisoners.

87. The Special Rapporteur also considers as very positive the improvements introduced by the authorities in the conditions of imprisonment and the inmates' regimen. These efforts should continue, along the lines indicated in the recommendations in the following chapter.

88. The excessive encroachment of military jurisdiction into criminal matters continues to lead to arbitrary acts and excesses. Jurisdiction by the military courts over the cases of civilians charged with offences against the Head of State gives these courts undue control over political opponents, curtails freedom of expression and limits the exercise of political pluralism.

89. In anticipation of the legislative elections for the entire House of Representatives of the People (Parliament) that are to be held in 1997, it is essential to avoid the mistakes of the past. Past elections (the 1993 legislative elections, 1995 municipal elections and 1996 presidential election) pointed to a series of obstacles, some of which derived from the Electoral Act and others from improper practices; it will accordingly be advisable and even necessary to pay particular attention to such problems. This having been said, the Special Rapporteur considers as positive the fact that His Excellency the Head of State has expressed a willingness to initiate amendments to the Electoral Act.

90. The Special Rapporteur wishes to highlight the authorities' efforts to improve the situation of women in Equatorial Guinea and their position in society, although these efforts are still not sufficient to prevent women from being relegated to an inferior position and discriminated against, often as a result of cultural factors.

91. Where the situation of children is concerned, the Special Rapporteur refers to the corresponding chapter of this report.

92. The Special Rapporteur continues to be disturbed at the harmful discrimination against people belonging to ethnic minorities, in particular members of the Bubi who join, or merely sympathize with, the MAIB.

93. The Special Rapporteur appreciates the modest progress achieved in the enjoyment of economic, social and cultural rights, as indicated by the figures contained in the corresponding chapter, although the progress is still manifestly insufficient to enable 65 per cent of the population of Equatorial Guinea to escape from the extreme poverty in which they are living.

VI. RECOMMENDATIONS

94. The Special Rapporteur makes the following recommendations in support of the efforts of the Government of Equatorial Guinea to protect human rights and to consolidate the progress already achieved.

95. The Special Rapporteur recommends the adoption of the legislative and administrative measures necessary to ensure the proper functioning of the

three powers of the State, each of which must act independently within its respective sphere of competence, and fully exercise the mutual checks and balances as authorized and obliged by the Constitution.

96. He also recommends that laws, decrees and governmental acts should be published periodically and regularly. He feels strongly that Equatorial Guinea should accede to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and to the International Convention on the Elimination of All Forms of Racial Discrimination.

97. The Special Rapporteur deems it essential to improve the functioning of the judiciary, in order that justice may be administered adequately and promptly. To this end he recommends the adoption of legislative and administrative measures to guarantee the full independence and impartiality of the judiciary with respect to any undue interference and to ensure due process of law and the enforcement of judicial decisions by the security forces. The necessary steps should also be taken to put into effective operation the remedy of habeas corpus, laid down in Act No. 18/1995, as the citizens' greatest guarantee against arbitrary detentions, and therefore as protection against torture and ill-treatment.

98. Where the military courts are concerned, the Special Rapporteur reiterates his earlier recommendation to limit their jurisdiction to trying strictly military offences committed by military personnel. Ordinary offences committed by military or police personnel should be tried by the ordinary courts, like offences committed by private individuals. Any offences involving slander or insults against the Head of State or any other dignitary should be tried by the ordinary criminal courts.

99. The Special Rapporteur considers it to be of the greatest importance that precise instructions should be transmitted to the forces of order and security (central authorities, government delegates, police forces, armed forces and village chiefs) not to order or make arbitrary arrests and to respect the right of the individual to security, integrity and freedom, and to put an end to the intimidation and harassment of political party activists and of citizens in general. These instructions should make it clear that all authorities have an obligation to respect the right of all nationals of Equatorial Guinea freely to express their opinions and to unite in acting on them.

100. Without prejudice to the foregoing, it is essential that the authorities should put an immediate end to all acts of torture and cruel, inhuman or degrading treatment or punishment and impose criminal and disciplinary penalties on those responsible. The widespread practice, followed by the central authorities and more often by the "peripheral authorities" responsible for public order, of ordering administrative sanctions, without judicial supervision, in the form of fines, backed if necessary by imprisonment, should be eliminated.

101. Similarly, he recommends that the police and military checkpoints throughout the interior of Equatorial Guinea, both on the island of Bioko and in the mainland region of Rio Muni, should be dismantled, since experience has amply demonstrated that they are responsible for impeding freedom of movement and freedom to travel.

102. The Special Rapporteur strongly recommends that the impunity of those responsible in various ways for human rights violations should be terminated. The measures adopted should aim at restoring the people's belief in its institutions and, particularly, in the administration of justice. He would remind the authorities that the obligations of any State include carrying out a prompt and impartial investigation of any report of torture, ill-treatment or arbitrary imprisonment; bringing to trial those responsible for such conduct and, if necessary, imposing penalties in keeping with the gravity of the acts and the rank of the perpetrators; ensuring the rehabilitation of the victims; and providing compensation for them and/or their relatives.

103. The efforts already made - which were duly noted by the Special Rapporteur - to continue improving the conditions of unconvicted and convicted prisoners and provide them with sufficient food and medical attention, including medicines and appropriate treatment, should be maintained. The work performed by prisoners should be remunerated, so as to enable them to meet their own and their families' basic needs.

104. It would be desirable for the competent authorities to envisage reforms of the Electoral Act, as the Special Rapporteur was told they would, so as to provide, for the legislative elections to be held in 1997, a legal framework which will guarantee that elections are both "clean" and credible. The Special Rapporteur recommends the following measures in particular: (a) revision of the existing electoral roll; (b) legalization of all political groups, which will entail constitutional and legislative changes in order to enable political parties to be formed on a regional basis, as is the case in many countries in the world; (c) equitable access by all political parties to the State media; (d) establishment of organs independent of the Executive, whose membership includes representatives of the various political forces, to be responsible for all aspects of the electoral process, including both elections and referendums. This should be done on the basis of the recommendations made by the electoral consultant who visited the country as part of a mission organized by UNDP in 1995 (see E/CN.4/1996/67, para. 83).

105. As regards the situation and status of women, the Government should continue the positive efforts it has already undertaken to put an end to the relegation of women to an inferior position and discrimination against them, often due to cultural factors, and to expand their effective participation in the education, professional, social and political spheres.

106. With reference to the situation of children, the Special Rapporteur encourages the Government to continue the efforts undertaken with the assistance of UNICEF.

107. Any sign or symptom of discrimination against ethnic minorities should be opposed, as stated in the relevant chapter of this report (see paras. 56-61 above).

108. The Government and other authorities should pay particular attention to ensuring that the whole population enjoys economic, social and cultural rights and should foster the necessary conditions to make this possible and to enable broad sectors of the population of Equatorial Guinea to escape from the extreme poverty in which they are living.

109. In the interest of cooperation in implementing the preceding recommendations, it is extremely important for the Commission on Human Rights

to request the Secretary-General of the United Nations to continue to provide, through the Office of the High Commissioner/Centre for Human Rights, technical assistance and advisory services to Equatorial Guinea, and in particular, with the cooperation of UNDP, to continue the programme of courses and seminars which made a successful start in 1995, with the holding of three training courses and one seminar.

110. Lastly, the Special Rapporteur believes that the Government of Equatorial Guinea should be congratulated and encouraged for the progress already achieved, but should at the same time be informed that this progress is so far insufficient to bring about proper respect for and enjoyment of human rights and fundamental freedoms. Convinced, therefore, that the observance of these rights and freedoms has not yet attained a level that would enable the Commission on Human Rights to reduce its monitoring of the situation, the Special Rapporteur recommends that international supervision should be maintained, together with technical assistance and advisory services.